

Exhibit 16

Declaration of William Robert Whyte

1. My name is William Robert Whyte. I am currently incarcerated at the Granville A unit in the Federal Correctional Institute Butner Low (“Butner Low”) facility at the Federal Correctional Complex Butner (“Butner”). My Bureau of Prisons (“BOP”) Register Number is 21514-084.

2. I am 75 years old.

3. I was sentenced to 70 months for major fraud against the United States. My release date is January 13, 2022.

4. I am a Canadian citizen. The United States Department of Justice has approved a transfer agreement that will allow me to serve the remainder of my sentence in Canada. I am waiting on Canadian authorities to process paperwork so that I can be transferred to a Canadian correctional facility.

Health Conditions

5. In early 2017, while I was released from incarceration pending my trial, I was diagnosed with prostate cancer. Beginning in May 2019, while I was incarcerated at Butner Low, I received 42 radiation treatments and an injection of Lupron.

6. Prior to being incarcerated, I was diagnosed with atrial fibrillation, which is an irregular heartbeat that can lead to blood clots, strokes, and heart-related complications. I am currently taking a blood thinner to help reduce my risk of stroke.

7. I am a veteran of the British armed forces. During my military service, I was exposed to three herbicidal warfare chemicals that are commonly referred to by their code names:

Agent Orange, Agent White, and Agent Purple. These chemicals contained carcinogens that have been shown to cause immune system damage and other health issues.

8. BOP medical staff has been conducting an X-ray on me approximately every six months since early 2018. I do not know exactly why I need to be X-rayed, but a BOP doctor has told me that I may have a shadow on my lung.

9. Before I became incarcerated, I was diagnosed with post-traumatic stress disorder, and I take two medications to help manage the condition.

Conditions in the Granville A Housing Unit

10. The Granville A housing unit houses about 160 men, and we live in cubicles that measure about 7' x 11'. Two men live in my cubicle with me. We have one bunk bed and one single bed. The small size of our cubicle means I cannot maintain six feet of distance from my roommates.

11. BOP staff bring meals to the door of my unit three times each day. Everyone in my unit lines up to receive meals at the same time. There is no way to socially distance in these lines.

12. I believe there is an option for meals to be delivered to us in our cubicles, but that is not happening.

13. I receive a monthly supply of my medications. Prescription refills are handed out by a BOP nurse, who is supervised by a BOP correctional officer at the door to my housing unit. When I need a refill of my prescriptions, I have to line up with many other men in my unit to pick up my medications. It is impossible for us to socially distance in this line.

14. Because of my medical vulnerabilities, I am concerned for my safety when I need to get refills of my prescriptions. I cannot maintain six feet distance from other men when I line up to get my medications.

15. The Granville A housing unit has two bathrooms shared by all 160 of us. Each bathroom has about 5 sinks, about 5 toilets, and about 5 showers. The showers are less than six feet apart from each other. The toilets are less than six feet apart from each other. The sinks are barely a few feet apart from each other.

16. My unit has a team of orderlies who are men living in the unit. Their job is to clean our bathrooms once each day. I do not know what cleaning supplies they use to do their jobs.

17. Hand sanitizer has never been available to me at Butner. BOP has not given me any, and I cannot buy it from the commissary. I believe it is unavailable to us because it contains alcohol.

18. To protect myself from the coronavirus, I have made a brine solution with salt and water. I use this to clean my hands. I do not believe this brine solution is as effective as hand sanitizer, but it is the best option I have other than washing my hands, which requires me to visit the bathroom where I cannot maintain six feet of distance from other men using the sinks.

19. There are five telephones for the approximately 160 people in my housing unit, but only two are operational at this time. I believe the orderlies in my unit are responsible for cleaning the phones once daily. I have not seen the phones cleaned after each use, but there are supplies available that I can use to clean the phone before I make calls. I do not believe this is effective, because we are not able to wait the required ten minutes for the disinfectant to work before the next person uses the phone.

20. We have to line up to wait to use the phones, and there is not enough space to keep six feet between each person in line. When all five phones are operational, it is impossible to maintain six feet of distance from other people using the phones. Right now, with only two phones operational, we are able to maintain six feet of distance from others using the phone.

21. I use the brine solution I made on my ear, my face, and my mask before and after I use the phone. This is the only way I have to protect myself from becoming infected with the coronavirus if it is present on the phones when I use them.

22. There are five computers for the approximately 160 people in my housing unit, but only four computers are available for emailing. One computer is used for library purposes. I believe the orderlies in my unit are responsible for cleaning the computers once daily. I have not seen the computers cleaned after each use, but there are supplies available that I can use to clean the computers before I use them. I do not believe this is effective, because I am not able to wait the required ten minutes for the disinfectant to work before I use the computer. I use my brine solution on my hands before and after I use the computers as a way to protect myself from the coronavirus.

23. We have to line up to wait to use the computers, and there is not enough space to keep six feet between each person in line. When we use the computers, it is impossible to maintain six feet of distance from other people using the phones.

Failure to Wear Masks

24. For many months I had been concerned about the failure of BOP staff members and correctional officers to wear masks while doing their jobs at Butner. I was worried that this behavior was putting my health at risk.

25. I had observed Officer Ford, who accompanied the nurse for medication distribution, not wearing mask while doing this job.

26. It was my belief that officers were visiting other Butner housing units without wearing masks or protective gear. For example, on May 1, 2020, I observed Ms. Reeves, a BOP drug coordinator who I believe visits multiple housing units during her daily shifts, visited my unit around 7:45 a.m. without wearing a face covering.

27. On several occasions I had observed BOP correctional officers interacting with men in my unit without wearing face coverings and without keeping six feet of distance. For example, at approximately 8:00 a.m. on April 3, 2020, I observed Officer Coor standing less than three feet from a man in my unit. Officer Coor was not wearing a face covering while speaking to this man.

28. Around 11:00 a.m. on April 3, 2020, I observed two correctional counselors, Ms. Reese and Mr. Grimoldo, in my unit for a count of prisoners with Officer Coor. I observed both of them tell Officer Coor to wear a mask, but he refused and continued to conduct the count without a face covering.

29. Approximately 15 minutes later, two members of BOP medical staff, who were wearing masks and gloves, arrived in my unit to attend to any emergency medical issues. They were standing near Officer Coor, who still was not wearing a mask. I did not see or hear either of them tell Officer Coor to wear a mask, and they left my unit despite observing Officer Coor working in our unit without a face covering.

30. Around 12:00 p.m. on April 3, 2020, I observed Ms. Young from the BOP education department distributing puzzles to men in my unit. At this time, Officer Coor was in my unit and was not wearing a mask. I observed Ms. Young ask Officer Coor to put on a mask. Officer Coor refused and berated Ms. Young about the stupidity of wearing a mask.

31. Later on April 3, 2020, I observed a man in my unit asked Officer Coor for a grievance form so that he could report Officer Coor's failure to wear a mask. I observed Officer Coor respond by refusing to the man a grievance form and threatening to send him to the solitary isolation unit, or the SHU.

32. On April 23, 2020, during the 4:00 p.m. count of the prisoners in my unit, I observed Officer Ngo not wearing a face mask. At approximately 5:10 p.m. that day, I observed Officer Ngo speaking with Officer Coor. Officer Ngo still was not wearing a face mask, and Officer Coor was not wearing his face mask properly—his mask did not cover his nose.

33. On May 9, 2020, I observed an incarcerated man from the Granville B unit interacting with a BOP staff member from the SIS investigative unit at approximately 6:15 a.m. Neither of them was wearing a face covering during their interaction. I reported the issue to a BOP staff member from the psychology department, and she told me she would inform the lieutenant.

Intimidation

34. I believe incarcerated men at Butner do not complain about incidents like this for fear of intimidation.

35. On April 20 and April 28, 2020, I notified BOP medical staff in writing about my concerns about masks not being worn and the risks that posed to my health, especially due to my exposure to Agents Orange, Purple, and White. I also sent separate written notifications of my concerns to Assistant Warden Hayward on March 25 and March 26, 2020, and Mr. Engel on April 28, 2020.

36. I received written responses from my psychiatrist offering to adjust my medications if needed. I have not heard back from Ms. Hayward or Mr. Engel.

37. I believe my concerns did not remain confidential and that BOP staff and correctional officers have learned about my complaints. I have heard from other men in my unit that BOP correctional officers are telling incarcerated men in my unit about my exposure to Agent Orange and my concerns about my safety.

38. I have experienced intimidation for complaining about BOP correctional officers and staff members failing to wear masks. Although BOP officers and staff are now wearing masks consistently, I continue to experience intimidation by BOP officers each morning.

39. I am being humiliated by having “Agent Orange” or my name growled out on the intercom throughout my unit on a daily basis.

40. On April 28, 2020, Officer Coor told me that he knows I have complained about him.

41. Nearly every day, someone calls out on the intercom into my unit, “William Whyte, get out of bed, it’s feeding time!” or something similar. When I picked up my breakfast bag after the first time I heard my name called out on the intercom in this manner, I asked Officer Ford what was needed from me. He said, “Nothing.” In response, I said, “Don’t try to intimidate me!”

Movement Between Housing Units and Butner Facilities

42. I have alerted BOP staff, including BOP correctional officers who work in my unit, about my medical conditions, but I do not believe BOP is doing enough to protect those of us who are medically vulnerable to the coronavirus.

43. I also believe other BOP staff members, correctional officers, and incarcerated men are traveling between housing units and increasing the risk of coronavirus spreading.

44. On March 31, 2020, during a town hall meeting in my unit with Assistant Warden Engel, I raised my concern that BOP staff members could be contaminating my unit with the coronavirus. I asked whether BOP staff who do not live at Butner are given personal protective equipment. Mr. Engel's response to me was, "You look healthy to me, so you don't have to worry about it." I explained to Mr. Engel directly, after the town hall, that allowing staff and correctional officers to intermingle without personal protective equipment would risk increasing deaths from COVID-19 at Butner. Mr. Engel's response was to angrily ask me how I knew people would die. I told him, "I have business experience installing NATO filtration and overpressure systems, and my training tells me so."

45. Some men in my unit have jobs that require them to leave our housing unit.

46. A man who lives in a cubicle about 30 feet away from mine, has a job cleaning up personal protective equipment used by sick people in other housing units. This means that he comes into contact with things used by people with COVID-19. I believe wears the same clothes and shoes to do his job as he wears around our housing unit.

47. On May 8, 2020, one of my roommates was called up for a food preparation job in a BOP kitchen with men from the Wake A, Durham B, and Granville B housing units. He continued to work in this job until approximately May 10, 2020, when the first person in my housing unit was confirmed to be infected with the coronavirus.

48. My roommate reported to me that while he was working in this kitchen doing food preparation that day, three BOP staff members only wore face coverings when the Assistant Warden was in the kitchen. I believe one of these staff members has now been confirmed to be infected with the coronavirus.

49. My roommate saw meals that had been taken to the SHU, where sick people are staying, but were not needed, were brought back to the kitchen and set aside to be distributed to other housing units.

50. On May 7, 2020, I learned that three incarcerated men who deliver food to Butner Low housing units had become ill with COVID-19 symptoms.

51. While using the computer in my unit on May 8, 2020, I had to sit approximately two feet away from a man in my unit who has a job as a commissary worker. I have heard that one of the men he has been working with at the commissary is man housed in the Granville B unit tested positive for the coronavirus on May 7, 2020. The man sitting at the computer next to me was ill with COVID-19 symptoms a few days after I sat next to him. I believe he has since tested positive for COVID-19.

COVID-19 Outbreak

52. Around May 10, 2020, some men in my unit, including the man I sat next to at the computer on May 8, 2020, began showing symptoms of COVID-19. These men were removed from our unit and, I believe, they have tested positive for coronavirus.

53. Around May 15, 2020, BOP staff began conducting temperature checks for all the men in my unit. Temperature checks are conducted three times each day in our cubicles with an infrared thermometer. If someone is found to have fever, he is removed from the unit and tested for the coronavirus.

54. I have not yet been tested for the coronavirus, and I have not had a fever at any of the temperature checks.

55. Since around May 10, 2020, when the first person in my unit became ill COVID-19 symptoms, our unit has been on lockdown. Men in my unit who have jobs that require them to leave the unit are not allowed to leave, such as my roommate who had been working in the kitchen doing food preparation. However, the man in my unit who is responsible for cleaning personal protective equipment in the SHU, is allowed to continue doing his job outside the unit and returning each day.

I, Ashley R. Anderson, certify that I reviewed the information contained in this declaration with Mr. Whyte by telephone on May 18, 2020, and that he certified under penalty of perjury that the information contained in this declaration was true and correct to the best of his knowledge.

/s/ Ashley R. Anderson

Ashley R. Anderson [N.C. Bar No. 51741]

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